REMARKS

Favorable consideration of this application is respectfully requested in view of the following remarks.

Claims 10-13 are pending in the application. Claim 10 has been withdrawn from consideration.

Claims 11-13 remain rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,062,848 (van der Burg) in view of Pizey, Synthetic Reagents, Volume 6, 1985, pp. 270-275 and pp. 372-414 (Pizey) and Collins, Methods for Obtaining Optically Active Compounds, Chirality in Industry, 1192 (Collins).

Applicants traverse this rejection and respectfully submit that the combination of van der Burg/Pizey/Collins does not make obvious the presently claimed method.

In particular, the Examiner states in the Office Action on page 3 line 5: "Van der Burg teaches that polyphosphoric acid (PPA), phosphorus pentoxide, and sulfuric acid are each dehydrating agents (column 2, lines 1-15). This teaching says that these three dehydrating agents are equivalent."

In contrast to the Examiner's statements of equivalency of the three dehydrating agents, the present specification demonstrates that PPA and phosphorus pentoxide are not equivalent to sulfuric acid with respect to solving the problem of racemization. In particular, Examples 1-10 indicate that higher enantiomeric yields were obtained utilizing PPA and phosphorus pentoxide compared with the enantiomeric yields obtained utilizing sulfuric acid. Since Van der Burg teaches that these dehydrating agents are equivalent, one skilled in the art would not be able to derive from the prior art that some of the dehydrating agents are not equivalent in solving the problem of racemization as is shown by the results obtained in the present specification.

Further, there is no mention whatsoever in the cited prior art of the impact of various dehydrating agents on racemization. Indeed, the cited prior art fails to recognize the problem of racemization when utilizing sulfuric acid. As there is a problem with racemization when utilizing sulfuric acid, one skilled in the art when faced with the problem of racemization with sulfuric acid would reasonably expect that PPA being equivalent to sulfuric acid, would also give problems with

racemization and give the same degree of racemization. Accordingly, based on the "equivalence" of sulfuric acid and PPA, the skilled person would not test PPA to solve the problem of racemization, and thus there would be no motivation for the skilled person to look for alternatives over sulfuric acid with the effect to arrive at using PPA, or to further experiment with amounts of PPA and compound to find a suitable weight ratio of PPA/compound.

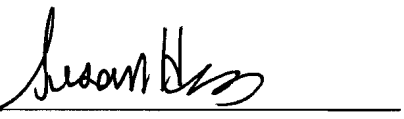
With respect to the Examiner's statement on page 4, lines 7-8 that "the weight ratio of PPA to substrate is 2, which is less than 2.5:1", it is not clear what the Examiner is trying to explain by this statement. Further clarification is respectfully requested.

In view of the above, withdrawal of the rejection of claims 11-13 under 35 U.S.C. §103(a) is respectfully requested.

A good faith effort has been made to place the present application in condition for allowance. If the Examiner believes a telephone conference would be of value, he is requested to call the undersigned at the number listed below.

Dated: May 18, 2011

Respectfully submitted,

By 

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